

In the Office Action dated May 10, 2001, claims 6 and 31 were rejected under 35 U.S.C. §101 based on "same invention" type double patenting in view of U.S. Patent No. 6,172,475 B1 issued to Fitzgibbon et al. (the '475 patent). Applicants have canceled the conflicting claims and added new claims 32-40, which are no longer coextensive in scope with the claims of the '475 patent.

Support for the amended claims, and in particular the varying of speed of the motor in accordance with a detected predetermined characteristic, can be found in the specification of the application. For example, support for varying speed according to the detection of a position of a movable barrier operator can be found at: page 6, line 29 to page 7, line 19; page 8, line 28 to page 9, line 15; page 35, lines 26-33. Support for varying speed according to the detection of a mode of operation (e.g., learn mode vs. regular operation) can be found at page 72 of the computer source code listing appendix. Support for varying speed according to the detection of length of travel of the movable barrier can be found at: page 6, line 29 to page 7, line 19; and page 7, line 30 to page 8, line 8. Support for varying speed according to the type of movable barrier (e.g., heavy vs. light, long vs. short, or multi-panel vs. single panel) can be found at: page 7, line 30 to page 8, line 8; page 24, line 31 to page 25, line 23; and page 87 of the computer source code listing appendix. Support for varying speed according to the detection of a hazardous condition (e.g., barrier obstruction) can be found at: page 19, lines 1-9; page 20, lines 27-32; page 36, line 27 to page 37, line 5; and page 39, line 35 to page 40, line 19. Support for varying speed according to the detection of feedback relating to movement of the movable barrier can be found at: page 19, lines 1-9 and 22-36; page

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Atty. Docket No. 70102

20, lines 27-32; page 30, lines 7-31; page 35, lines 26-33;  
and page 39, lines 21-34.

With respect to the computer program listing  
appendix, Applicants enclose herewith a clear and legible copy  
of this appendix per the Examiner's request.

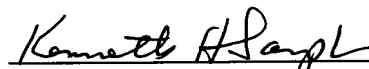
Applicants submit that no new matter has been added  
and respectfully request entry and consideration of the  
instant amendment and allowance of the pending claims.

Accompanying this Amendment are: a Petition for  
Extension of Time; an Amendment Transmittal; and a clean copy  
of the computer program listing appendix submitted in the  
above-captioned application.

The Commissioner is hereby authorized to charge any  
additional fees which may be required with respect to this  
communication or credit any overpayment to Deposit Account No.  
06-1135.

Respectfully submitted,  
FITCH, EVEN, TABIN & FLANNERY

Dated: October 10, 2001

  
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